



भारत का राजपत्र The Gazette of India

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सं. 26] नई दिल्ली, शनिवार, नवम्बर 2, 1991/कार्तिक 11, 1913
No.26] NEW DELHI, SATURDAY, NOVEMBER 2, 1991/KARTIKA 11, 1913

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii)
PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than Administrations of Union Territories)

भारत निर्वाचन आयोग

नई दिल्ली, 6 सितम्बर, 1991

आ.अ. 103:- निर्वाचन आयोग 1990 की निर्वाचन अधीन सं
4 में मुम्बई उच्च न्यायालय (औरंगाबाद खण्ड पीठ) के तारीख 19
दिसम्बर, 1990 वाले निर्णय के विरुद्ध 1991 की विधि में, 11
(एन.सी.ई.) में भारत के उच्चतम न्यायालय के तारीख 16 जुलाई
1991 के आदेश को लोक प्रतिनिधित्व अधिनियम, 1951 (1951
का 43) की धारा 116 ग की उपधारा 2 (ख) के प्रत्युत्तर में इसके
द्वारा प्रकाशित करता है।

(आदेश अधीन में छपा है)

[सं. 82/सहा.-सो.सं./4/90 (औरंगाबाद)]

आदेश से,

एम.के. पांडे, प्रवर सचिव

ELECTION COMMISSION OF INDIA

New Delhi, the 6th September, 1991

O.N. 103.—In pursuance of sub-section 2(b) of section
116C of the Representation of the People Act, 1951 (43 of
1951), the Election Commission hereby publishes the Order
dated 16 July, 1991 of the Supreme Court of India in Civil
Appeal No. 11(NCE) of 1991 filed against the judgement
dated 19 December, 1990, of High Court of Judicature at
Bombay (Aurangabad Bench) in Election Petition No. 4 of
1990

[No. 83/MT-HP/4/90 (Aurangabad)]

By Order,

S. K. PANDEY, Under Secy.

IN THE HIGH COURT OF JUDICATURE AT

BOMBAY : NAGPUR : BENCH : NAGPUR.

ELECTION PETITION NO. 4 OF 1990.

Charandas son of Marotrao Ramteke, aged about 45 years,
occupation cultivator, resident of Nerla, post Nerla, taluq
Pawani, district Bhandara.

PETITIONER

—Versus—

1. Vilas Wishwanath Shrungarpawar, aged about 40 years, occupation cultivator, resident of Adyar, taluq Pauni, district Bhandara.
2. Ashok Ramchandra Gajbe, resident of 7, Rahate Layout, Pratap Nagar, Nagpur, taluq and district Nagpur.
2. Gautamkumar Asaram Akre, resident of and Post Dhobisarad, taluq Deori, district Bhandara.
4. Eknath Ramchandra Bavankar, resident of Shaniwari, Ward, Pauni, tahsil Pauni district Bhandara.
5. Dr. Dhanraj Budhaji Karwade, at and post Pahela, tahsil and district Bhandara.
6. Sou. Mandakini w/o Gangadhar Kalamkar, resident of Jail Ward, Kanphade Nagar, Nagpur, tahsil and district Nagpur.
7. Vilas Runkrishnaji Katelhave, resident of Vithal Gujari Ward, Pauni, tahsil Pauni, district Bhandara.
8. Mahadeo Maniram Kewat, resident of and post Minsi, tahsil Pauni, district Bhandara.

9. Khan Mohd. Dilwar Narayan, at and post Nimgaon, tahsil Pauni, district Bhandara.
10. Bhaskarrao Shrawan Jembhulkar, at and post Bela, tahsil and district Bhandara.
11. Anna Wanusa Tickule, resident of Jamgaon, post Nerla, tahsil and district Bhandara.
12. Laxmanrao Shrawan Tirpude, resident of and post Kondhi tahsil and district Bhandara.
13. Rajaram Bhiwaji Damle, resident of Nawa Nakasha Ward No. 53, Nagpur, tahsil and district Nagpur.
14. Vinayak Sitaramji Durge, resident of 296, Garoba Maidan, Post Bagadganj, Nagpur, tahsil and district Nagpur.
15. Deorao Lolaji Raghute, resident of and post Kurza, tahsil Pauni, district Bhandara.
16. Baliram Raghobaji Donadkar, Bhagyashree Griha Nirman Sabakari Sanstha, Ganeshpur, Bhandara, tahsil and district Bhandara.
17. Vasanta Warluji Pimpalkar, resident of Rampuri Ward, Pauni, tahsil Pauni, district Bhandara.
18. Raghunath Hari Bramhankar, resident of 'Shivneri' Bajrang Chowk, Bhandara.
19. Dharmasheel Gajanan Bhante, resident of Jawahar Nagpur, 59/1, Type--I, tahsil and district Bhandara.
20. Bhika Kawadui Bhaisare, resident of and post Pauni, tahsil Pauni, district Bhandara.
21. Devanand Raghunath Ramteke, resident of Thana, post Jawahar Nagar, tahsil and district Bhandara.
22. Parmanand Sitaram Ramteke, resident of Bajaj Chowk, Pauni, tahsil Pauni, district Bhandara.
23. Narhari Govinda Warkade, resident of Garada, Post Kesalwada, tahsil Sakoli, district Bhandara.
24. Vijay Tarachand Waniari, resident of Sujata Nagar, Binakhi, Nagpur, tahsil and district Nagpur.
25. Shamrao Vilthoba Tishare, resident of Somewari Ward, Pauni, tahsil Pauni, district Bhandara.
26. Shanideo Dajiba Suryawanshi, c/o Virendra Sineh Thakur, Plot No. 13, Nagpur, tahsil and district Nagpur.
27. C. S. Dahalkar, Returning Officer, 144—Adyar legislative Assembly Constituency, Bhandara, resident of near Office of the Collector, Bhandara, tahsil and district Bhandara.

... RESPONDENTS

M/S M. L. Vaidya and S. W. Dhabe, Advocate or the petitioner.

M/S P. G. and S.P. Palshikar, S. P. Dharmadhikari, and A. S. Jibhate, Advocates, for the respondent No. 1.

Mr. P. M. Gundawar, Advocate 'A' Panel, for Respd. No. 27.

CORAM : M. M. QAZI J.

Dated : 5th October, 1990

JUDGMENT :

The petitioner was a candidate for the Maharashtra Legislative Assembly Election of Adyar Constituency No. 144 held on 27-2-1990 along with respondent Nos. 1 to 26. The respondent No. 27 was the Returning Officer of the said election. The polling of the said constituency was over on 27-2-1990 at 5.00 P.M. Counting of votes started on 1-3-1990 at 8.00 A.M. and completed on 2-3-1990 at about 8.00 A.M. Immediately thereafter result was announced and the respondent No. (hereinafter referred to as 'the returned candidate') was declared elected.

Total number of votes polled was nearabout 71.5 per cent ... 1,03,226

Total number of votes found in favour of the returned candidate ... 28,091

Total number of votes found in favour of the petitioner. ... 20,521.

The petitioner contested the election on the ticket of the Republican Party of India (Khobragade) and his symbol was HORSE while the returned candidate Vilas Vishwanath Shrangarpawar contested the election as an independent candidate and his symbol was MASHAI (Torch).

2. According to the petitioner, though the returned candidate contested the election as an independent candidate, his propaganda was as if he was an official candidate of the Indian National Congress (I) and thereby he tried directly or indirectly to interfere or attempted to interfere with free exercise of the electoral right. This propaganda, according to him, amounted to corrupt practice under section 123(3) and (3-A) of the Representation of the People Act, 1951 (hereinafter referred to as 'the Act') and, therefore, his election is liable to be set aside and declared to be void under section 100(1)(b) of the said Act. According to the petitioner, the Indian National Congress (I) did not set up any candidate in this election on their behalf but supported respondent No. 12 Laxmanrao Shrawan Tirpude, who was a candidate of the Republican Party of India of Ramdas Athawale. In short, his contention is that there was an alliance between the Indian National Congress (I) and the Republican Party of India of Ramdas Athawale in this election. According to the petitioner, the returned candidate printed posters with the photograph of late Smt. Indira Gandhi—the Ex-Prime Minister and Ex. President of Indian National Congress (I), and that these posters were pasted at the prominent places throughout the constituency.

3. According to the petitioner, the returned candidate addressed small gatherings of about 15 to 20 persons essentially consisting of his workers and voters at different places in the constituency and told them that several Hindu candidates were contesting the election, consequently their votes would be divided and the petitioner, who is a Mahar, would be elected. He exhorted them if they would tolerate a Mahar and whether they would like to go to him for their work. He also alleged to have said that if the petitioner was elected, Adyar constituency would be a reserved constituency for Scheduled Castes for 15 to 20 years.

4. The petitioner was informed of the above communal propaganda by persons who heard it. They also gave it in writing in the form of an affidavit to the petitioner. However, the affidavits are not worn. According to the petitioner, this amounted to corrupt practice under section 123(3) and (3-A) of the Act and as such his election is liable to be set aside and declared to be void and further he is liable to be disqualified for corrupt practices under section 100(1)(b) of the Act. According to the petitioner the returned candidate, his agents and other persons with his consent had appealed to the voters of the constituency in the name of religion, viz., Hindu religion to which the returned candidate belongs, for voting in his favour and to refrain from voting in favour of Mahar candidate, viz. the petitioner.

5. It was further contended by the petitioner that respondent No. 18 Raghunath Hari Bramhankar was the District Government Pleader and Assistant Public Prosecutor for Bhandara district. He was thus disqualified for being chosen as a candidate and his nomination paper could not have been accepted since he is holding the office of profit under the State of Maharashtra under Article 191(1)(a) of the Constitution of India. According to the petitioner acceptance of nomination paper of respondent No. 18 Bramhankar has materially affected the election of the returned candidate and hence is liable to be set aside and declared to be void under section 100(1)(1)(i) of the Act.

6. The petitioner contended that the primary estimate of polling was 65% but after the counting it was found 71.5% of the total votes on the electoral roll of the said Adyar constituency. He contended that the same estimate was published in the newspapers. Thus, according to him, there was a difference of 7570 votes between the votes got by the returned candidate and the votes got by the petitioner. According to him, on the basis of the estimate excess votes

were found to be 9293 and if these votes are excluded from the counting, the petitioner has secured highest votes and he was entitled to be declared elected. In view of this he has alleged that there was a tampering of ballot boxes which resulted in the excess votes of 9293. According to him, on account of this the election of the returned candidate is liable to be declared void. Lastly, the petitioner contended that he immediately after the announcement of the results of the election applied to the respondent No. 27 Returning Officer in writing for re-counting of votes, but he refused to accept his application.

7. The returned candidate denied that the estimate of polling was 65%. According to him, the figures given by the petitioner are not authentic and they are merely a guess work of the concerned newspaper and the petitioner. He denied tampering of the ballot boxes. According to him, he belongs to Congress I and as such he was elected from this constituency in the election of 1985. However, in spite of his loyalty and work, he was denied the ticket as an official candidate of the Congress I in the election of 1990. Instead, there was an alliance between the Indian National Congress I and the Republican Party of India led by Ramdas Athawale. In view of this, many loyal workers from the Indian National Congress I felt that injustice was being done to them and, therefore, they formed a separate organisation known as "Maharashtra Indira Congress". However, it is not recognised as a political party and, therefore, no symbol was allotted to this party by the Election Commissioner. Therefore, the returned candidate had to contest the election as an independent candidate. He denied that the propagated that he was an official candidate of the Indian National Congress I. He also denied the allegations of the petitioner about the corrupt practice as wholly without foundation. However, he admitted that he printed the posters with the photograph of late Smt. Indira Gandhi, but that, according to him, he did as an admirer of Indira Gandhi.

8. The returned candidate in his return denied that the he indulged into any propaganda on the basis of caste, community or religion. On the contrary, according to him, his slogan was "No caste, No creed. Only merits of the candidate" should be the consideration. According to him, he was not present in the small meetings of the workers and voters alleged to have been addressed by him at various places on various dates indulging in the propaganda based on caste, community and religion. On the other hand, he specifically pointed out that on most of those dates he was elsewhere in connection with the election campaign and in support of this he examined several witnesses.

9. In regard to the objection about non-acceptance of the nomination paper of respondent No. 13, Bramhankar—District Government Pleader, the returned candidate submitted that his election did not materially affect the election since he secured only 476 votes and hence there was no substance in the challenge raised by the petitioner on this count. He denied that the petitioner applied to the Returning Officer for recount of votes.

10. The Returning Officer (Respondent No. 27) has filed his return refuting the allegations made against him. He submitted that the estimate of 65% polling was not an authentic one and news to that effect was a mere guess. He denied that there were excess votes numbering 9293. He also denied that there was tampering of ballot boxes. He has denied that any application was filed either by the petitioner or his agent for recount and, therefore, according to him, there was no question of refusal of such application. It is denied that there were excess votes and that they were improperly accepted. According to him, no body objected to the nomination of the respondent No. 18 Bramhankar and, therefore, he accepted the same. However, since the acceptance of his nomination paper did not materially affect the result of the election, there is no substance in this challenge, he contends.

11. The petitioner and the returned candidate both have examined fairly a large number of witnesses including themselves in support of their case. The respondent No. 27 Returning Officer has also examined himself as a witness.

12. The main challenge of the petitioner in the petition is that the returned candidate has made communal propaganda in the election, constituting corrupt practice within

the meaning of section 123(3) and (3-A) of the Act. As I have shown above, his case seems to be that the returned candidate addressed small meetings of about 15 to 20 persons consisting of his workers and voters and told them that since several Hindu candidates are contesting the election their votes are likely to be divided, as a result of which the petitioner, who is a Mahar, would be elected. He, therefore, exhorted them whether would they tolerate a Mahar as a M.L.A. and would they like to go to him for work. He also told them that if Mahar was elected. This constituency would be reserved for Scheduled Castes for 15 to 20 years. It is not his case that the returned candidate or any one on his behalf said so in the public meetings.

13. Though several meetings have been addressed by the petitioner in which communal propaganda is alleged to have been carried, it is not necessary to discuss the evidence of all those meetings since in all fairness Mr. Vaidya has not even referred to them. He has restricted his submission only to 8 such meetings which are as follows :

Date	Place	Time
(1)	(2)	(3)
20-2-1990	Kondha	6 P.M.
22-2-1990	Katurli	8 P.M.
23-2-1990	Pahela	4 P.M.
24-2-1990	Daudipar	7 P.M.
25-2-1990	Nerla	8 30 P.M.
25-2-1990	Adyar	8 P.M.
26-2-1990	Sonnala	11 A.M.
26-2-1990	Adyar	9 P.M.

14. Meeting held at Katurli on 22-2-1990.

According to the petitioner, the returned candidate held a meeting at Katurli on 22-2-1990 at 8.00 P.M. at Nehru Chowk and indulged in communal propaganda. In this connection he examined Santosh Chintaman Raut (P.W. 12) and Bhimrao Wasudeo Ramteke (P.W. 13).

Santosh Raut (P.W. 12) has deposed that the returned candidate had come to Katurli on 22-2-1990 in connection with the election campaign. While this witness was standing near the grocery shop at about 8.00 P.M. he saw that the return candidate had collected about 10 to 20 persons in Nehru Chowk and was telling them that since several Hindu candidates were contesting the election, the Hindu votes would be divided, as a consequence of which the petitioner, who is Mahar, would be elected. He further exhorted them whether they would prefer to go to a Mahar candidate for work. According to him, the returned candidate said that if Mahar candidate was elected, the constituency would be reserved for 15 years for Mahar. According to this witness, he informed the petitioner on 24-2-1990 about the communal nature of the propaganda which was being made by the returned candidate and since the petitioner wanted him to give it in writing, he gave it in writing. Exh. 45 is the said writing and Exh. 45-B is its English translation. In cross-examination, he admitted that at the time of communal propaganda, the returned candidate was sitting in the tea shop of one Kankhore. He has further admitted that if one has to go to the grocery shop from his house, the tea shop does not fall in the way. This admission renders his evidence highly improbable. He does not appear to be a natural witness. He has stated that he gave the information in writing in the form of an affidavit on his own. It is difficult to appreciate as to why this witness thought it necessary to report about the communal propaganda in the form of an affidavit particularly when he did not think it necessary to report the matter to any other authority even though he admits that such a propaganda amounts to an offence. For all these reasons, I do not think it safe to accept his evidence.

Bhimrao Wasudeo Ramteke (P.W. 13) has deposed that the returned candidate had come to his village Katurli on 22-2-1990 and held a corner meeting in Nehru Ward. According to him, there were about 15 to 20 persons in that meeting. According to him, the returned candidate told them that since several Hindu candidates were contesting the election the Hindu votes would be divided, as a consequence of which the petitioner was likely to be elected.

He further asked the workers whether they would tolerate a Mahār candidate being elected. According to him, the returned candidate posed a query to his audience whether he was not suitable even in comparison to Mahar. The returned candidate also alleged to have said that if the Mahār was elected, the constituency would be reserved for Mahār candidates for 15 years. The uncle of this witness, Devanand Ragnunam Kumbhake, who was also contesting the election, was not informed by this witness about the communal nature of the propaganda alleged to have been made by the returned candidate. There is no reference to the name of this witness in the affidavit given by Santosh Kaur (P.W. 12). In the petition in para 15 while referring the meeting at Katurli, the petitioner does not refer to this witness. For all these reasons it is not possible to place any reliance even on this witness.

15. The returned candidate admitted that he held a meeting at Katurli, but he has denied that he indulged in any communal propaganda. According to him, he simply told the people about his candidature and that his symbol was torch. He has denied the presence of Santosh Kaur (P.W. 12) and Bhimrao Kumbhake (P.W. 13). He has examined Kewalram Gaudane (K.W. 14) and Damodhar Ragnute (R.W. 16) to substantiate his contention that no communal propaganda was made.

Kewalram (R.W. 14) has deposed that the slogan of the returned candidate was "No caste or community consideration should weigh with the voters". He appealed to the people to vote only on the basis of merits of the candidate. He admitted that the returned candidate visited his village Katurli on 22-2-1990 at 8.00 P.M. along with Damodhar Ragnute and Balwant Bhojar. According to this witness, the returned candidate halted at the hotel of one Baburao Sahare and told to about 4 to 5 people who had collected there that they should elect him and that his symbol was torch. There was no reference to caste or community and thereafter the returned candidate left the hotel and went towards Adyar. According to this witness, he halted in the hotel for about 10 minutes. He has further deposed that while going to the grocery shop of Devanand Wahane from the house of Bhimrao Kumbhake or Santosh Kaur, the tea shop of Bhaurao Sahare does not fall on the way. He is the Sarpanch of the village since last 10 years. His testimony is not at all shaken in cross-examination though he has been cross-examined at some length.

Another witness examined by the returned candidate on this point is Damodhar Ragnute (R.W. 16). This witness has fully corroborated the testimony of the returned candidate in all material particulars. He worked for the returned candidate in the election. He accompanied the returned candidate to number of villages in connection with the election campaign. He has deposed that on 22-2-1990 he along with the returned candidate went to Tirri, Chikhli, Pilandri, Kesalpuri and Katurli. According to him, at Katurli they halted at the tea shop of one Bhaurao Sahare at about 8.00 P.M. He stated that at all the places the returned candidate was telling that his symbol was a torch and that people should vote for him in view of his past work as a M.L.A. without being influenced by the consideration of caste or community. Thus, taking into consideration the evidence of the returned candidate and his witnesses, it is difficult to accept the allegation of the petitioner that the returned candidate indulged in communal propaganda. I have already shown above that the evidence led by the petitioner does not inspire confidence and it would not be safe to accept such evidence in an election petition which is a quasi criminal trial.

16. Meeting held at Daudipar on 24-2-1990.

According to the petitioner, the returned candidate had also called a meeting at Daudipar on 24-2-1990 at about 7.00 P.M. and indulged in communal propaganda based on caste, community and religion. He has examined Ramlal Kashiram Dhurve (P.W. 14) and Patiram Bakaram Meshram (P.W. 15) in support of his contention.

According to Ramlal Dhurve (P.W. 14), the returned candidate had come to his house on 24-2-1990 in connection with the election meeting since he had an election office in his house. He further stated that about 15 to 20 persons were present there. He deposed that election posters of

the returned candidate were affixed at number of places in his village which carried the photograph of late Shri. Indira Gandhi along with that of the returned candidate. He has proved the said posters, which are at Exhs. 16 and 17. He further stated that the returned candidate said that several Hindu candidates were contesting the election and, therefore, the votes would be divided and the Mahār would be elected, and whether they would tolerate a Mahār. According to him, the returned candidate also said that if Mahār was elected no body could get a chance for 15 years. He, therefore, exhorted the workers and voters that they should not allow the votes to be divided amongst Hindu candidates and that the returned candidate should be elected. According to this witness, he informed the petitioner about this propaganda and thereafter he gave it in writing on the request of the petitioner. This witness is definitely adverse to the returned candidate. It is clear from his evidence that he had asked for Congress ticket for his wife in the election of 1985. The ticket was given to his wife and instead it was given to the returned candidate. According to him, he gave a writing to help the petitioner. It is surprising that when all other witnesses have given only one writing in favour of the petitioner, this witness gave two separate writings in the form of an affidavit, though not sworn, (Exhs. 49 and 48). Exh. 49 refers to one Turpude, whereas Exh. 48 refers to the petitioner that since he is Mahār people should not vote for him. Again, there is no satisfactory explanation as to why the writing is given in the form of an affidavit. For all these reasons, it is not possible to place any reliance on the testimony of this witness.

The next witness, whose testimony is relied upon by the petitioner, is Patiram Meshram (P.W. 15). He has deposed that the returned candidate had come to village Daudipar two days prior to the election and held an election meeting at the house of Ramlal Dhurve (P.W. 14). According to him, about 20 to 22 persons were present in the meeting. He was also present there. According to him, the returned candidate told the people that several Hindu candidates were contesting the election and therefore the Hindu votes would be divided, as a consequence of which the petitioner, who is a Mahār, would be elected. The returned candidate, therefore, asked them whether they would like to go to Mahār for signature. Reading his evidence as a whole it does not inspire any confidence. He does not give the reasons as to why he went to attend that meeting. It is also not clear from his evidence as to how the petitioner came to know that this witness was present in that meeting, because he does not claim to have informed the petitioner about this meeting and the communal propaganda alleged to have been made by the returned candidate. It appears from the evidence of the petitioner that whenever he witnesses have informed the petitioner about such meetings, the petitioner asked them to give it in writing. It is not understood as to why no such writing was taken from this witness. He has admitted that he had no information about the same. He claims to have gone to the house of Bhaiyya Dhurve because he had some work with him, but he does not say what that work was and whether that work was done or not. In fact, he admits that because of that meeting he did not speak to Bhaiyya Dhurve about the work. In other words, one has to believe that he simply went there, heard the communal propaganda and came back. For all these reasons it would not be safe to rely on the testimony of this witness.

17. The returned candidate has examined Anil Harde (R.W. 2) and Ashok Moharkar (R.W. 21) besides himself in order to prove that he did not go to Daudipar on 24-2-1990 as alleged by the petitioner. Anil Harde (R.W. 2) has deposed that he is a resident of Daudipar. According to him, the returned candidate did not visit this village on 24-2-1990 and instead he had visited the village on 25-2-1990 at about 9.30 P.M. when he had stayed there hardly for few minutes. He has deposed that there was no election office of the returned candidate at village Daudipar. However, he admits that election posters of the returned candidate were affixed at Dhurve's house as well as in the village. According to him, no communal propaganda was made by the returned candidate. On the contrary his request was that people should vote for him in view of his past service, according to the witness. In cross-examination, his testimony is not shaken.

Ashok Moharkar (R.W. 21) claims to have worked for the returned candidate in the said election. According to him, the returned candidate had no election office at his

village. He has deposed that he went with the returned candidate on 17-2-1990 and also on 24-2-1990 to some villages in connection with the election propaganda. On 24-2-1990 they covered villages Asgaon, Mondar, Lavan, Bargaon, Baidara, etc. in connection with the election propaganda. According to him, he was with the returned candidate on that day upto 5.00 P.M. His testimony is not shaken in cross-examination. It is not even suggested to him that the returned candidate visited Daudipar on 24-2-1990.

Mond. Bashir (R.W. 3) is a resident of Daudipar. According to him, the returned candidate had no election office at Daudipar. He has further deposed that the returned candidate visited the village on 15-2-1990 at about 9.00 P.M. in connection with the election propaganda. In cross-examination he has stated that the returned candidate visited Daudipar only once i.e. on 15-2-1990 during the election period. According to him, he remembered the date 15-2-1990 because he personally met the returning officer on that day.

The returned candidate has also entered the witness-box and has deposed that on 24-2-1990 he visited villages other than Daudipar. He has denied that he visited Daudipar on 24-2-1990. According to him, he had no election office at Daudipar and that he had not authorised anybody to open the same there. There is nothing in his cross-examination to show that his testimony is shaken on this point. In view of the evidence led by the parties, it is difficult to hold that the returned candidate had addressed any meeting at Daudipar on 24-2-1990 and indulged in communal propaganda as alleged by the petitioner.

18. Meeting held at Nerla on 25-2-1990.

In regard to the meeting held at Nerla, the case of the petitioner is not that the returned candidate himself indulged in communal propaganda. According to him, it was one Satyawar Ajbale (R.W. 23), who indulged in that propaganda on behalf of the returned candidate. Solitary witness has been examined by the petitioner in support of his contention, i.e. Anandrao Kodane (P.W. 3) to prove this meeting. Anandrao Kodane is the resident of Nerla. He has deposed that the returned candidate had called a meeting on 25-2-1990 in the house of one Baburao Godmare at Nerla. Godmare's house being just in front of his house, he claim to have gone there and attended the meeting. According to him, Satyawar Ajbale told the people present in the meeting that they should not vote for the petitioner because he is a Mahar and that they must vote for the returned candidate. He claims to have informed this to the petitioner and also gave it in writing on 28-2-1990 (Exh. 21-B is the English translation of the said writing). From his examination-in-chief it appears that the propaganda was made by the returned candidate himself. However, in the cross-examination he took a somersault and said that it was Satyawar Ajbale who did that propaganda. In cross-examination he has categorically admitted that the returned candidate was not present in the said meeting. It is not understood as to why he gave it in writing on 28-2-1990 when, according to him, he had already reported the matter to the petitioner earlier, particularly when it does not appear that the petitioner insisted for the same. It is difficult to accept his explanation that he gave it in writing just to apprise the petitioner of a false propaganda that was going on against him. The explanation appears to be obviously false because he had already apprised him earlier orally. There is also no cogent explanation for giving it as late as on 28-2-1990 when the incident took place on 25-2-1990. Thus, it is difficult to believe the solitary testimony of this witness.

19. The returned candidate has examined Satyawar Ajbale (R.W. 23) in support of his contention that there was no meeting at Nerla on 25-2-1990 as alleged by the petitioner. Satyawar Ajbale has deposed that he did not hold any meeting on 25-2-1990 either at Nerla or at Holi Chowk at Adyar. According to him, he did not work for the returned candidate in that election and, therefore, there was no question of addressing any meeting by him. In cross-examination an attempt was made to show that he is an interesting witness, and in fact he is to some extent, since he admitted that he worked as a counting agent for the returned candidate after the election was over. He also admitted that he was the worker of the Indian National Congress (I) and

that he worked for the returned candidate in the election of 1985. However, that by itself cannot be a ground to discard his testimony particularly when it is not at all shaken in cross-examination. As I have already observed above that the petitioner has examined the solitary witness Anandrao Kodane in support of this incident and for the reasons discussed above, it is not possible to accept his testimony. I, therefore, find that no such meeting was held at Nerla on 25-2-1990 as alleged by the petitioner.

20. Meeting held at Adyar on 25-2-1990.

In regard to the incident at Adyar on 25-2-1990 the petitioner examined two witnesses; Ramesh Turpude (P.W. 8) and Sampat Kaore (P.W. 16). The evidence of Ramesh Turpude (P.W. 8) seems to be useless. He claims to have stopped near the grocery shop on seeing about 10 to 20 persons standing near Holi Chowk on 25-2-1990. The returned candidate was also there. According to this witness, the returned candidate was saying whether they would like the petitioner who is a Mahar being elected as a M.L.A. According to him, the returned candidate further said that if Mahar was elected then the constituency would be reserved for 15 to 20 years. He also told the people whether they would like to go to a Mahar to get their work done. According to this witness, next day he went to the petitioner at Nerla from Adyar and informed him the type of propaganda that was being made against him. The petitioner, according to him, asked whether he was willing to give it in writing and since he agreed to give it in writing he came back home at Adyar, prepared the writing (Exh. 34) and handed over the same to the petitioner by again going to Nerla. The writing is in an affidavit form. It does not appeal to reason as to why he has gone to Nerla from Adyar to report the incident; then prepared the document (Exh. 34) at Adyar and handed over the same to the petitioner by again going to Nerla. Again it is not understood as to why he gave the same in an affidavit form when the petitioner did not ask him to do so.

The next witness relied upon by the petitioner is Sampat Kaore (P.W. 16). It is difficult to place any reliance on the testimony of this witness. He has an axe to grind against the returned candidate. He was prosecuted for having exhumed the body of the daughter of the brother of the returned candidate and for practising witch-craft, though he was ultimately acquitted. He was fined in Criminal Case No. 994 of 1989 for offences under Section 110, 112 and 117 of the Bombay Police Act. He is yet facing another prosecution for offences under sections 448, 294 and 506 of the Indian Penal Code. Even otherwise, in the examination-in-chief he has not stated anything beyond 'that the returned candidate held a meeting at Holi Chowk on 25-2-1990 of about 15 to 20 persons at 8.00 P.M.; that if the petitioner, who is a Mahar, is elected the constituency would be reserved for 15 years and no body would get a chance'. It is doubtful whether this statement by itself would constitute communal propaganda constituting corrupt practice within the meaning of section 123(3) and (3-A) of the Act.

21. The returned candidate has examined Kalekhan Pathan (R.W. 7), Mahadeo Chimurkar (R.W. 8) and Ashok Gobhane (R.W. 22) besides himself in regard to this incident. Kalekhan Pathan (R.W. 7) has deposed that the returned candidate had come to his village Thana on 25-2-1990 at about 9.00 P.M. According to him, the returned candidate passed from in front of his house while campaigning from house to house. One Chimurkar Sao Sarpanch and Dayal Kanna were with the returned candidate. This witness accompanied the returned candidate upto some distance and thereafter the returned candidate left for Shahapur and this witness came back to his house.

The next witness is Mahadeo Chimurkar (R.W. 8). He is also from Thana. According to him also the returned candidate had gone to his village Thana in connection with the election campaign on 25-2-1990 at about 7 P.M. and propagated from house to house about his candidature. While propaganda he did not refer to community or caste. This witness also accompanied the returned candidate to Shahapur from Thana and reached Shahapur at about 9.30 P.M. and from there the returned candidate proceeded to Adyar and this witness came back to his village Thana.

The returned candidate also denied that he addressed any meeting at Adyar on 25-2-1990 as alleged by the petitioner.

Ashok Gabhane (R.W. 22) worked for the returned candidate in the Assembly Election of 1990. He is a resident of Adyar (Mandai Mohalla). He has deposed that the returned candidate never held any meeting at Mandai Mohalla. He has further deposed that on 25-2-1990 he did not hold any meeting at Honi Chowk. According to him the returned candidate came to Mandai Mohalla on 21-2-1990 and told the voters that he was an independent candidate and that his election symbol was torch. He denied that they indulged in any communal propaganda. His testimony is so shaken in cross-examination. It has not been suggested to him in cross-examination that the meeting was held at Adyar (Mandai Mohalla) on 25-2-1990. Thus, it seems to be highly improbable that such a meeting was addressed by the returned candidate at Adyar on 25-2-1990 in which communal propaganda was made.

22. Meeting held at Adyar on 26-2-1990.

Now, coming to the incident of Adyar dated 26-2-1990, we have the evidence of Dakram Chavan (P.W. 1) and Gopal Gaonane (P.W. 2) on behalf of the petitioner. Dakram (P.W. 1) is a resident of Adyar. He has deposed that on 26-2-1990 the returned candidate had collected about 15 to 20 people near the house of Gopal Gabhane. He heard the returned candidate saying that since there were several Hindu candidates contesting the election, the votes of Hindus would be divided and the petitioner, who is a Mahar, would be elected. He asked them whether they would like to go to a Mahar for signature. According to him, the returned candidate also told the people that if Mahar would be elected the constituency would be reserved for 15 to 20 years for Mahar. He claims to have informed this to the petitioner on 27-2-1990. When the petitioner asked him to give it in writing, he gave it in the form of an affidavit (Exh. 20) on 28-2-1990. It is surprising that he does not give the time as to when the meeting was addressed by the returned candidate. There is inconsistency between his evidence and the evidence of the petitioner particularly on the point whether the affidavit was given by this witness on his own or on the asking of the petitioner. According to him, he gave it in writing because he was asked for by the petitioner, whereas according to the petitioner, the witness gave the writing on his own. This witness is of the same caste as that of the petitioner. It is not understood as to why he gave the writing (Exh. 20) in the form of an affidavit. The evidence appears to be artificial and it is not possible to accept the same.

Gopal Gabhane (P.W. 2) is the resident of Adyar. According to him, the returned candidate had taken a meeting a day prior to the day of election in front of his house. There were about 25 people in the said meeting. The returned candidate, according to him, told the people that since several Hindu candidates were contesting the election there was every likelihood that the votes of Hindus would be divided as a consequence of which Mahar would be elected. According to this witness, the returned candidate asked the people whether would it be proper for them to go to a Mahar for work. This witness has not given the time of the meeting, which is a serious infirmity and renders his evidence highly improbable.

23. The returned candidate has examined two witnesses; Balwant Bhojar (R.W. 17) and Nilkanth Kohapare (R.W. 19) besides himself to refute the allegation of the petitioner in regard to the incident of Adyar. Balwant Bhojar (R.W. 17) is a resident of Adyar. According to him, he visited several places in connection with the election campaign of the returned candidate. According to him, on 26-2-1990 he along with the returned candidate went to Navegaon in the evening. One Raghute Guruji was with them. They moved from house to house in connection with the election campaign. He denied that the returned candidate indulged in any communal propaganda. According to him, from Navegaon Bandh they came to Adyar at 9.30 P.M. It has not been suggested to this witness that they held a meeting at Adyar after coming from Navegaon. There is nothing to doubt the evidence of this witness.

The next witness is Nilkanth Kohapare (R.W. 19). This witness is a resident of Navegaon. He has been examined

to show that the returned candidate was at his village on 26-2-1990 at about 8.45 P.M. in connection with the election propaganda and that he was accompanied by Bhojar Guruji and Raghute Guruji. No doubt the distance between Adyar and Navegaon is only 3 Kms. and it is not impossible to address a meeting at Adyar after 9.00 P.M. but it is not so suggested to the witness in his cross-examination.

The returned candidate has also denied that he had addressed a meeting at Adyar on 26-2-1990. Thus, for all these reasons it is not possible to hold that the returned candidate had addressed a meeting at Adyar on 26-2-1990 at about 9.00 P.M. as alleged by the petitioner.

24. We have covered the five meetings which are seriously pressed by Mr. Vaidya. We are now left only with other following three meetings.

Date	Place	Time
20-2-1990	Kondha	6 P. M.
23-2-1990	Pahela	4 P. M.
26-2-1990	Somnala	11 A. M.

All these three meetings are based on solitary testimony. Now, coming to the meeting at Kondha dated 20-2-1990, Shamrao Ramteke (P.W. 6) is the only witness examined by the petitioner. According to him, on 20-2-1990 when he was at village Kopuha-Kosra he saw that about 10 to 12 persons were standing near the shop of Sarpanch Manoharrao Jibhate along with the returned candidate. According to this witness, the returned candidate told them that there was no possibility of respondent No. 4 Eknath Ramchandra, Bawankar respondent No. 7, Vikas Ramkrishna Keteckhaye and respondent No. 15 Deorao Lotaji Raghute being elected and, therefore, chances of the petitioner were bright. He, therefore, persuaded them to elect him. Thereafter the meeting came to be dispersed. This is the sum and substance of his evidence. He does not attribute any communal propaganda to the returned candidate. He is the solitary witness on this incident. His evidence is of no assistance to the petitioner.

25. As regards the meeting at Pahela dated 23-2-1990, Sadashiv Donu Uike (P.W. 10) is the solitary witness. He has deposed that on 23-2-1990 the returned candidate came to village Pahela in connection with the election propaganda before his election office near the bus-stand at 4 P.M. According to him, the returned candidate said that since there were several Hindu candidates, there was no likelihood of his being elected. Therefore, the petitioner was bound to be elected. He has further deposed that once the petitioner was elected the constituency would be reserved for 15 years for Mahar. He claims to have gone to village Pahela for purchase of goods. In cross-examination he has admitted that he had gone to Pahela to receive his wages. He has admitted that the affidavit (Exh. 38) is prepared by his son Ramesh about the communal propaganda alleged to have been made by the returned candidate on 23-2-1990 at village Pahela. He has further admitted that he did not ask his son Ramesh to prepare the report in the form of an affidavit. His son was studying in First Year. It is, therefore, difficult to believe as to how he knows affidavit, particularly when he is not conversant with court work or other official work. For all these reasons, it is difficult to accept his evidence without there being any corroboration.

26. As regards the meeting at Somnala dated 26-2-1990, Kailash Chingaji Ramteke (P.W. 9) has been examined by the petitioner. He has deposed that on 26-2-1990 Shankarrao Vaidya—Vice Chairman of the Pauni Panchayat Samiti was addressing 15 to 20 persons in the hotel of Waman that there was no likelihood of Deorao Raghute, Vilas Keteckhaye and Eknath Bawankar being elected and that there was every likelihood that the petitioner, who is Mahar, would be elected. He has further deposed that Shankarrao Vaidya warned the people that if the petitioner was elected then they will have to go to Mahar for seeking signature. This is a solitary testimony on this point. This witness has executed a writing in the form of an affidavit (Exh. 36). In examination-in-chief, this witness has deposed

that Exh. 36 is the same document in his hand and he identified his signature thereon. However, in cross-examination he says that the contents of Exh. 36 are not his hand. According to his version in cross-examination, they were written by his brother Baliram as dictated by him. He claims to have handed over Exh. 36 to the petitioner by going to Nerla from his village Somnala, which rendered his testimony highly improbable. No reliance can, therefore, be placed on this witness.

27. The allegations of corrupt practices in an election petition are in the nature of quasi criminal charges and must be proved beyond reasonable doubt. From the evidence disinsed above in respect of the 8 meetings, it does not appear that the petitioner has successfully proved the charges beyond reasonable doubt. Mr. Vaidya has laid great stress on the following observations made by Their Lordships of the Supreme Court in para 64 of the judgment reported in A.I.R. 1985 S.C. 236 : (S. Harcharan Singh vs S. Sajjan Singh and others) :

"Several decisions of this Court have laid down various tests to determine the standard of proof required to establish corrupt practice. While insisting on standard of strict proof, the Court should not extend or stretch this doctrine to such an extreme extent as to make it well-nigh impossible to prove an allegation of corrupt practice. Such an approach would defeat and frustrate the very laudable and sacrosanct object of the Act in maintaining purity of the electoral process."

In view of the above decision, Mr. Vaidya has argued that while appreciating the evidence laudable and sacrosanct object of the Act in maintaining purity of the electoral process cannot be lost sight of. There can be no dispute about this proposition, but, nonetheless it cannot be lost sight of that the charge of corrupt practice is a punitive rule against the character assassination of candidate during the period of election. The charge of corrupt practice being of a quasi criminal character, the onus on an election petitioner is heavy as if in a criminal charge. It is true that while insisting on the standard of strict proof, the Court should not extend or stretch this doctrine to such an extreme extent as to make it well-nigh impossible to prove an allegation of corrupt practice, but nonetheless the allegations have got to be established beyond reasonable doubt to the satisfaction of the Court by cogent and unimpeachable evidence. Even if two views are reasonably possible; one in favour of the elected candidate and the other against him, it would not be proper to upset the election. The law requires that in such a case, the election will have to be upheld giving the winning candidate benefit of doubt. In this connection, Mr. Palshikar has rightly referred to the decision of the Supreme Court in A.I.R. 1986 S.C. 3 : (Ram Singh and others vs Col. Ram Singh). Paras 3 and 4 of the said decision read as under :

"3. Of course the advocacy of the counsel for the parties does play a very important role in unveiling the truth and in borderline cases the courts have to undertake the onerous task of "disengaging the truth from falsehood, to separate the chaff from the grain". In our opinion, all said and done, if two views are reasonably possible—one in favour of the elected candidate and the other against him—courts should not interfere with the expensive electoral process and instead of settling at naught the election of the winning candidate should uphold his election giving benefit of doubt. This is more so where allegations of fraud or undue influence are made.

4. These observations have been made by us in order to decide election cases with the greatest amount of care and caution, consideration and circumspection because if one false step is taken, it may cause have to the person who loses."

28. Mr. Vaidya has heavily relied on the decision re-Mehra) to substantiate the ground of corrupt practice. I do not think there is any comparison between Bukhari's case

and the present case. In Bukhari's case, Bukhari had delivered highly inflammatory speeches which amounted to the assertion that muslim religion was in danger and could only be saved by a man like him and not by Shaukat Chagla. Bukhari had addressed several public meetings canvassing that Islam was in danger and that Muslim Personal Law would be changed if his opponent Shaukat Chagla was elected. Shaukat Chagla had married a Hindu wife and in that connection Bukhari said that he was neither a good Muslim nor a good Hindu. He further said to the listeners that if they voted for Chagla, they would have to cremate the bodies of their dead instead of burying them, because Chagla had cremated the dead body of his sister. Bukhari directly attacked Chagla's religion and in that connection said that every one had to observe his religion wholeheartedly and not like Chagla. It is in view of these highly inflammatory speeches that the Supreme Court observed that his absolutely unambiguous object was to persuade the audience not to vote for Chagla but to vote for Bukhari on the ground that Bukhari was a true Muslim whereas Chagla was not. In that case, the evidence was clinching inasmuch as the speeches were tape-recorded and some were taken down by the Stenographer of the Police-Department in verbatim. In the present case, the evidence is not impeachable. The objectionable sentences "would you tolerate a Mahar" and "would you like to go to Mahar for your work" not even deposed to by all the witnesses. Some of the witnesses have not even deposed to the time of the meetings which is a material fact to constitute corrupt practice. Even if the evidence is accepted, the attack on the caste of the petitioner is in private meetings and there is not an iota of evidence to show that the same was conveyed in public meetings.

29. Mr. Vaidya has also relied on A.I.R. 1985 S.C. 236 (cited supra). The facts of this case are also distinguishable. In this case (cited supra) some communications in the nature of Hukamnama from Akal Takhta were issued in favour of the returned candidate and, therefore, his election was challenged on the ground that it amounted to corrupt practice under section 123 of the Act. It is in that background the Supreme Court has observed in para 64 as follows :

"Taking into account the totality of the evidence in the background of the fact that some communications from Akal Takht, call it Hukamnama or any other name, were issued and the issues of editorials of Akali Takht, which were mentioned by Shri Parkash Singh Badal as stated by the witness on behalf of the appellant and which is not denied by Shri Parkash Singh Badal, we are of the opinion that in this case appeal in the name of religion was made on behalf of respondent No. 3."

The evidence in the above case was clinching inasmuch as issuance of Hukamnama from Akal Takht was not in dispute. It was represented to the electorate that the returned candidate was a nominee of the Akal Takht by no less a person than the former Chief Minister of Punjab in presence of the candidate himself. The candidate also asserted the same. It was represented that it was the religious duty of the Sikhs to vote. It was further represented that any Sikh who casts his vote in favour of Indira Congress did not deserve to be called a Sikh. It was also emphasised that right to vote was a sacred trust in favour of the Panth and whoever exercised this right against the order issued by the Panth, would be regarded as a traitor to the Panth. It is, therefore, clear that appeal to vote for the returned candidate of Hukamnama of Akal Takht was all the consequences of Hukamnama of Akal Takht was highlighted before the electorate. I do not think, there is any comparison between the above case and the present case.

As already observed above, corrupt practice must be proved in the same way as a criminal charge is proved. The election petitioner must exclude every hypothesis except that of guilt on the part of the returned candidate or his election agents. Having regard to all these facts, the contention of the petitioner that the returned candidate has committed corrupt practice under section 123 (3) and (3-A)

of the Act is rejected and, therefore, the question of declaring the election of the returned candidate void under section 100(1)(b) of the Act does not arise.

30. According to the petitioner, the respondent No. 18 Bramhankar was disqualified for being chosen as Member of the Maharashtra Legislative Assembly since he was holding the office of profit under the State of Maharashtra under Article 191(1)(a) of the Constitution of India. His nomination was, therefore, improperly accepted, he contended. He further contended that acceptance of the nomination of respondent No. 18 created confusion in the minds of the voters and, therefore, the voters cast their votes in favour of the returned candidate. In substance, he contended that due to the acceptance of nomination of respondent No. 18, the election of the returned candidate has been materially affected and hence it is liable to be set aside and declared to be void under section 100(1)(d)(i) of the Act. The Returning Officer has deposed that he did not know that respondent No. 18 was a Government Pleader. He has further deposed that on the date of scrutiny no body took objection to the candidature of the respondent No. 18 and hence he accepted his nomination. Though Mr. Palshikar has not seriously disputed that respondent No. 18 was holding the office of profit, he seriously disputed that the acceptance of his nomination in any way affected the election of the returned candidate. I feel, there is much substance in this contention. The fact that the respondent No. 18 got only 476 votes is sufficient to indicate that acceptance of his nomination cannot be said to have materially affected the result of the election as required under section 100(1)(d)(i) of the Act. Hence, there is no substance in this challenge.

31. Mr. Vaidya has invited my attention to the pamphlets (Exhs. 16 and 17) carrying the photograph of late Smt. Indira Gandhi along with the photograph of the returned candidate. On the basis of this, Mr. Vaidya has argued that this amounts to undue influence on the free exercise of the electoral rights under section 123(2) of the Act. The returned candidate has not disputed the pamphlets (Exhs. 16 and 17). On the contrary, his case has been that he was essentially a loyal Congressman and was given ticket in the election held in 1985. His grievance seems to be that since during this election, the ticket is denied to him by the Indian National Congress (I), he had to contest the election as an independent candidate after having formed his own party viz., 'Maharashtra Indira Congress'. In substance, his contention is that he is the admirer of late Smt. Indira Gandhi. He has denied that he has brought any undue influence on the electorate by printing and publishing the photograph of late Smt. Indira Gandhi along with the photograph. In this connection, Mr. Palshikar has invited my attention to the decision reported in A.I.R. 1975 S.C. 926 (Bachan Singh and another vs. Prithvi Singh and others). In this case the posters were published by Pradesh Congress Committee containing the photographs of the Prime Minister Smt. Indira Gandhi, Shri Jagjivan Ram, Defence Minister, and Shri Swaran Singh, Foreign Minister in the first row, and beneath the first row were the photographs of three Chiefs and four Generals of the Armed Forces, in favour of the returned candidate. It bore the caption "Pillars of Victory". Their Lordships of the Supreme Court held that it did not constitute undue influence on the free exercise of the electoral rights. In paras 19 and 20 the Supreme Court observed :—

"19. Doubtless the definition of 'undue influence' in subs. (2) of section 123 is couched in very wide terms, and on first flush seems to cover every conceivable act which directly or indirectly interferes or attempts to interfere with the free exercise of electoral right. In one sense even election propaganda carried on vigorously, blaringly and systematically through chrisma leaders or through various media in favour of a candidate by recounting the glories and achievements of that candidate or his political party in administrative or political field, does meddle with and mould the independent volition of electors, having poor reason and little education, in the exercise of their franchise. That

such a wide construction would not be in consonance with the intendment of the legislature is discernible from Proviso to this Clause. The proviso illustrates that ordinarily interference with the free exercise of electoral right involves either violence or threat of injury of any kind to any candidate or an elector or inducement or attempt to induce a candidate or elector to believe that he will become an object of divine displeasure or spiritual censure. The prefix 'undue' indicates that there must be some abuse of influence. 'Undue influence' is used in contra distinction to 'proper influence'. Construed in the light of the proviso, Clause (2) of S. 123 does not bar or penalise legitimate canvassing or appeals to reason and judgment of the voters or other lawful means of persuading voters to vote or not to vote for a candidate. Indeed such proper and peaceful persuasion is the motive force of our democratic process.

20. We are unable to appreciate how the publication of this poster interfered or was calculated to interfere with the free exercise of the electoral right of any person. There was nothing in it which amounted to a threat of injury or undue inducement of the kind inhibited by section 123(2)."

The case is on all fours and completely repels the argument of Mr. Vaidya that the publication of the photograph of late Smt. Indira Gandhi amounted to undue influence under section 123(2) of the Act.

32. According to the petitioner, the polling of Adyar Constituency was 65% as per the primary estimate of polling. He has relied on the news item published in 'Tarun Bharat' and 'Lokmat' dated 28-2-1990. However, ultimately it was found that the voting was turned out to be 71.5%. In view of this, he contended that 9293 votes were the excess votes which ought to have been excluded from the counting as they were not validly cast. He has also alleged that the ballot boxes were tampered and, therefore, the returned candidate could secure the excess vote.

At the outset, I may point out that there is no evidence at all in regard to tampering of ballot boxes. Even the pleadings to this effect are extremely vague. The petitioner has relied on the testimony of Prabhakar Sakhav Mahajan (P.W.11) and Suresh Sitaram Fadnavis (P.W.17). Prabhakar (P.W.11) has deposed that he had received the tentative figure of the polling from the District Information Officer, Bhandara, that the polling of Adyar Constituency was about 65 per cent. He admits that he had supplied this estimate to the Press. According to him, the news item dated 28-2-1990 in the 'Tarun Bharat' and 'Lokmat' is based on the information he supplied. In cross-examination, he has admitted that he has no personal knowledge about the percentage of polling. He has further admitted that he received the information from the District Information Officer Bhandara, on 27-2-1990 at 7.00 P.M. It is difficult to understand how this witness is of any assistance to the petitioner. He has no personal knowledge and consequently the estimate which he gave was purely tentative. Next witness Suresh (P.W.17) is the District Information Officer, Bhandara. According to him, he had received the information about the approximate percentage of polling of Adyar Constituency orally that it was 65 per cent. In cross-examination, he admits that the Deputy Election Officer had given him the estimate. He fairly admits that the exact information he came to know after the counting was over. Even this witness, in my view, is of no assistance to the petitioner since his information was just an estimate based on guess.

Respondent No. 27 Dahalkar.—Returning Officer, has deposed that on 28-2-1990 at about 3.00 A.M. he received all the ballot boxes duly sealed at Panni. He kept all the ballot boxes in the strong room. According to him, he received other necessary information in the sealed packet including the account of ballot papers. He has further deposed that the Presiding Officer of each polling station sends his own statement about percentage of polling. From

that statement he came to know that the total percentage of voting was between 71 to 72 per cent. This information he gave to the District Election Officer and also to the Deputy Election Officer. It appears that the news item dated 28-2-1990 could not be based on this information because this information was received by the Returning Officer himself at about 3.00 A.M. on 28-2-1990. Therefore, the news appearing in the Press on 28-2-1990 could not be ordinarily on the basis of this information. It may further be observed that it was necessary for the petitioner to have examined the Reporters of the Press, who could have proved the news items and could have thrown more light on this aspect. Be that as it may, fact remains that there is no reliable evidence to prove that the percentage of voting was 65% as alleged by the petitioner. No declaration, therefore, can be granted on this count under section 100(1)(d)(iii) of the Act as prayed by the petitioner.

33. The petitioner has contended that he had given an application (Exh. 19) to the Returning Officer for recount, but he refused to accept the same. However, the Returning Officer (respondent No. 27) has denied the same. Even otherwise, from the conduct of the petitioner, it does not appear that the said application (Exh. 19) was given to the Returning Officer. Had it been refused by the Returning Officer, then certainly the petitioner would have agitated the matter further. Moreover, petitioner's is a solitary testimony on this point. There is only word against word and there is no reason as to why the Returning Officer should be disbelieved, particularly when his testimony is not shaken. There is no substance in this challenge.

34. For the reasons discussed above, the petitioner has failed to prove the challenges raised by him in the petition. Consequently, the petition deserves to be dismissed and is accordingly dismissed with costs. Rule discharged.

By the Court.
Sd/- L. S. Gogte.
Assistant Registrar.
High Court of Bombay,
at Nagpur.

आदेश

नई दिल्ली, 7 अक्टूबर, 1991

आ.अ. 104.—निर्वाचन आयोग का समाधान हो गया है कि 1989 में हुए लोक सभा के लिए साधारण निर्वाचन में 10-सिद्दी (अ.ज.पा.) संसदीय निर्वाचन-क्षेत्र में निर्वाचन लड़ने वाले अभ्यर्थी श्री प्रेम लाल, ग्राम मनकीतर, पो. आ. मेमरिया, पोंडि, जिला सीद्दी, मध्य प्रदेश लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्द्वारा बनाए गए नियमों द्वारा यथा प्रोक्षित अपने निर्वाचन व्ययों का लेखा दायित्व करने में असफल रहा है ;

और उक्त अभ्यर्थी ने सम्बन्ध सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यित नहीं है ;

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10 क के अनुसरण में उक्त अभ्यर्थी श्री प्रेम लाल को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस प्रदेश की तारीख में तंतु वर्ष की काला-अधि के लिए निर्वाचित घोषित करता है ।

[सं. 76/म.प्र.-वि.स./91 (1)]

ORDERS

New Delhi, the 7th October, 1991

O.N. 104.—Whereas the Election Commission is satisfied that Shri Prem Lal, Village Manakishar, P.O. Semeria Pondi, District Sidhi, Madhya Pradesh, a contesting candidate for General Election to the House of the People held in 1989 from 10-Sidhi (ST) Parliamentary Constituency

has failed to lodge an account of his election expenses as required by the Representation of the People, Act, 1951 and the Rules made thereunder;

And, whereas, the said candidate has not furnished any reason or explanation for the said failure even after the notice and the Election Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the said Shri Prem Lal to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

[No. 76/MP-HP/91(1)]

आ.अ. 105.—निर्वाचन आयोग का समाधान हो गया है कि 1990 में हुए मध्य प्रदेश विधान सभा के लिए साधारण निर्वाचन में 276-देवास विधान सभा निर्वाचन-क्षेत्र से निर्वाचन लड़ने वाले अभ्यर्थी श्री जगदीश, 52, खारी बुवादी, देवास जिला देवास, मध्य प्रदेश, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्द्वारा बनाए गए नियमों द्वारा यथा प्रोक्षित अपने निर्वाचन व्ययों का लेखा दायित्व करने में असफल रहा है ;

और उक्त अभ्यर्थी ने सम्बन्ध सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यित नहीं है ;

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10क के अनुसरण में उक्त अभ्यर्थी श्री जगदीश को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस प्रदेश की तारीख में तंतु वर्ष की काला-अधि के लिए निर्वाचित घोषित करता है ।

[सं. 76/म.प्र.-वि.स./91 (1)]

O.N. 105.—Whereas, the Election Commission is satisfied that Shri Jagdish, 52, Khari Buvadi, Dewas, District Dewas, Madhya Pradesh, a contesting candidate for General Election to the Madhya Pradesh Legislative Assembly held in 1990 from 276-Dewas Assembly Constituency has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidate has not furnished any reason or explanation for the said failure even after the notice and the Election Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the said Shri Jagdish to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

[No. 76/MP-IA/91(1)]

आ.अ. 106.—निर्वाचन आयोग का समाधान हो गया है कि 1989 में हुए लोक सभा के लिए साधारण निर्वाचन में 36-धार (अ.ज.पा.) संसदीय निर्वाचन-क्षेत्र में निर्वाचन लड़ने वाले अभ्यर्थी श्री सांगी लाल विलिया ग्राम और पोंस्ट चिकला, सहमोल व जिला धार, मध्य प्रदेश, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्द्वारा बनाए गए नियमों द्वारा यथा प्रोक्षित अपने निर्वाचन व्ययों का लेखा दायित्व करने में असफल रहा है ;

और उक्त अभ्यर्थी ने सम्बन्ध सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है और निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यित नहीं है ;

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10क के अनुसरण में उक्त अभ्यर्थी श्री मांगल धुलिया को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस अधिनियम की तारीख से तीन वर्ष की कालावधि के लिए निरहिंत घोषित करता है।

[मं. 76/म.प्र.-च.स./91(2)]

आदेश से,
हरिंदर हिरा, सचिव
भारतीय निर्वाचन आयोग

O.N. 106.—Whereas the Election Commission is satisfied that Shri Mangilal Dhulia, Village & Post Chiklya, Tehsil & District Dhar, Madhya Pradesh, a contesting candidate for General Election to the House of the People held in 1989 from 36-Dhar (ST) Parliamentary Cons-

tituency has failed to lodge an account of his election expenses as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidate has not furnished any reason or explanation for the said failure even after the notice and the Election Commission is satisfied that he has no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the said Shri Prem Lal to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this Order.

[No. 76/MP-HP/91(2)]

By Order
HARINDER HIRA, Secy.
Election Commission of India

आदेश

नई दिल्ली, 7 अक्टूबर, 1991

आ. अ. 107:- भारत निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट लोक सभा के लिए नवम्बर, 1989 में हुए निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र में हुआ है, स्तम्भ (4) में उनके सामने विनिर्दिष्ट निर्वाचन खड़े वाले अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदुद्धीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दर्शित अपने निर्वाचन व्ययों के लेखे वांछित करने में असफल रहे हैं ;

और, उक्त अभ्यर्थियों ने सम्पत् सूचना दिए जाने पर भी उक्त असफलता के लिए न तो कोई कारण अथवा स्पष्टीकरण दे दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यान नहीं है ;

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य-क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस अधिनियम की तारीख से तीन वर्ष की कालावधि के लिए निरहिंत घोषित करता है।

सारणी

क्रम सं. निर्वाचन का विवरण	संसदीय निर्वाचन क्षेत्र की क्रम सं. और नाम	अभ्यर्थी का नाम और पता	निरहिता का कारण
1	2	3	4
1. लोक सभा के लिए साधारण निर्वाचन 1989	3-बाहरी दिल्ली	1. श्रीमती भाति देवी ए/198, पीरागढ़ी रिपब्लिक कैंम्प, नई दिल्ली ।	निर्वाचन व्ययों का लेखा वांछित नहीं किया ।
2. --वही--	4-पूर्वी दिल्ली	2. श्री अविनाश पुरी, 8319 संगली बिल्डिंग, रीगनारा रोड, दिल्ली-7	--वही--
3. --वही--	--वही--	3. डा. प्राणमोय , 48-बी, लक्ष्मी नगर, ब्याक ए., दिल्ली-92	--वही--
4. --वही--	--वही--	4. श्री ईश्वर चन्द, अम्बर मं. 444, पश्चिमी बंग, तीस हजारी कोर्ट दिल्ली ।	--वही--
5. --वही--	--वही--	5. दिनेश शर्मा, 31/95, विश्वास नगर दिल्ली ।	--वही--
6. --वही--	--वही--	6. श्री प्रमोद जैन, 9/6404, मृदुर्जी स्ट्रीट, गांधी नगर, दिल्ली-32	--वही--
7. --वही--	--वही--	7. श्री पवन कुमार, 429, मोहल्ला-महराम, शाहदरा, दिल्ली-32	--वही--

1	2	3	4	5
7.	लोक सभा के लिए साधारण निर्वाचन, 1989	4-पूर्वी दिल्ली	7. श्री वृजेश कुमार, 389, गाँव आज़ादपुर, दिल्ली।	निर्वाचन व्यर्थों का लेखा दाखिल नहीं किया।
9.	--वही--	--वही--	9. श्री भोला नाथो, 690, कल्याण नगर, शाहदरा दिल्ली।	--वही--
10.	--वही--	--वही--	10. श्री मेहताब बंग 2007, गली नवाब मिर्जा, तुर्कमान गेट, दिल्ली।	--वही--
11.	--वही--	--वही--	11. श्री रमेश, सो-109, केवल पार्क, दिल्ली	--वही--
12.	--वही--	--वही--	12. श्री लाला धर शर्मा, डी-22, ज्योति कापोनी, शाहदरा दिल्ली	--वही--
13.	--वही--	--वही--	13. श्री विद्यालम मिश्र, 20 डाकघर क्लब का आर्य समाज मंदिर, कृष्ण नगर, दिल्ली।	--वही--
14.	--वही--	--वही--	14. डा. सतेन्द्र कुमार वीर, एच-38/सी, शकरपुर, दिल्ली।	--वही--
15.	--वही--	--वही--	15. श्री हुमायूँ खान, एफ. 15/1/2, शास्त्री पार्क, दिल्ली।	--वही--
16.	--वही--	--वही--	16. श्री देवेन्द्र कुमार गोयल, एफ. 4/24, कृष्णानगर, दिल्ली।	--वही--
17.	--वही--	5-बांवेनी चौक	17. श्री अशोक कुमार, 190,, गली बंदूक वाली अजमेरी गेट, दिल्ली।	--वही--
18.	--वही--	7-करोल बाग (अ.जा.)	18. श्री अशोक कुमार बच्चानिया, 6166/1, गली नं. 4, देव नगर, दिल्ली।	--वही--
19.	--वही--	--वही--	19. श्री राय साहब सोनी 10418, मानकपुरा, करोलबाग, दिल्ली।	--वही--
20.	--वही--	--वही--	20. श्री सनपाल, 3329/26 बीडन पुरा, करोलबाग, नई दिल्ली।	--वही--
21.	--वही--	--वही--	21. श्री सुन्दर लाल, सी 402, सिद्धार्थ नगर, मुल्तानी बाड़ा, दिल्ली।	--वही--
22.	--वही--	--वही--	22. श्री हरीश प्रकाश सेठ, ए-269, न्यू रंजीत नगर, डी.डी.ए. फ्लेट, नई दिल्ली।	--वही--

[सं. 76/दिल्ली-नो. स./91 (2)]

New Delhi, the 7th October, 1991

ORDERS

O.N. 107.—Whereas the Election Commission of India is satisfied that the contesting candidates specified in column (4) of the Table below at the election to the House of the People held in November, 1989, as specified in column (2) and held from constituency correspondingly specified in column (3) against their names have failed to lodge account of their election expenses, as shown in column (3) of the Table, as required by the Representation of the People Act, 1951, and the Rules made thereunder;

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And, whereas, the said candidate have either not furnished any reason or explanation for the said failure even after the notice of the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of three years from the date of this Order.

TABLE

Sl. No.	Particulars of election	Sl. No. & name of parliamentary constituency	Name & address of the candidate	Reasons for disqualification
1	2	3	4	5
1.	General election to the House of the People, 1989	3—Outer Delhi	Smt. Shanti Devi, A/198, Peeragarhi, Relief Camp, New Delhi.	Accounts of election expenses not lodged.
2.	-do-	4—East Delhi	Avinash Puri, 8319, Shanglo Building, Roshanara Road, Delhi-7.	-do-
3.	-do-	-do-	Dr. Ashutosh, 48-B, Laxmi Nagar, Block—A, Delhi-92.	-do-
4.	-do-	-do-	Sh. Ishwar Chand, Chamber No. 444, Western Wing, Tis Hazari Courts, Delhi.	-do-
5.	-do-	-do-	Sh. Dinesh Sharma, 31/95, Vishwas Nagar, Delhi.	-do-
6.	-do-	-do-	Sh. Pramod Jain IX/6404, Mukherjee Street, Gandhi Nagar, Delhi—32.	-do-
7.	-do-	-do-	Sh. Pawan Kumar, 429, Mohalla Maharam, Shahdara, Delhi—32.	-do-
8.	-do-	-do-	Sh. Brijesh Kumar 389, Village Azadpur. Delhi.	-do-
9.	-do-	-do-	Sh. Bhola Nath, 690, Kabul Nagar, Shahdara, Delhi.	-do-
10.	-do-	-do-	Sh. Mehtab Beg, 2007, Gali Nawab Mirza, Turkman Gate, Delhi.	-do-
11.	-do-	-do-	Sh. Ramesh, C-109, Kewal Park, Delhi.	-do-

1	2	3	4	5
12. General election to the House of People, 1989	4-East Delhi		Sh. Lila Dhar Sharma, D-22, Jyoti Colony, Shahdara Delhi.	Accounts of election expenses not lodged.
13. -do-	-do-	-do-	Sh. Vidya Ram Mishra, 20, Post Office Block, Arya Samaj Mandir, Krishna Nagar, Delhi.	-do-
14. -do-	-do-	-do-	Dr. Satandra Kumar Veer, H-38/C, Shakarpur, Delhi.	-do-
15. -do-	-do-	-do-	Sh. Hamayu Khan, F-15/1/2, Shastri Park, Delhi.	-do-
16. -do-	-do-	-do-	Sh. Davinder Kumar Goel, F-4/24, Krishna Nagar, Delhi.	-do-
17. -do-	5-Chandni Chowk		Sh. Ashok Kumar, 190, Gali Badoo kwali, Ajmeri Gate, Delhi.	-do-
18. -do-	7-Karol Bagh (SC)		Sh. Ashok Kumar Bachawandia, 6166/1, Gali No. 4, Dev Nagar, New Delhi.	-do-
19. -do-	-do-	-do-	Sh. Rai Sahab Soni, 10418, Manakpura, Karol Bagh, Delhi.	-do-
20. -do-	-do-	-do-	Sh. Sat Pal, 3329/26, Beadon Pura, Karol Bagh, New Delhi.	-do-
21. -do-	-do-	-do-	Sh. Sunder Lal, C-402, Sidharth Nagar, Multani Dhanda, Delhi.	-do-
22. -do-	-do-	-do-	Sh. Harish Prakash 'Seth' A-269, New Ranjeet Nagar, DDA Flat, New Delhi.	-do-

[No. 76/DL-HP/91(2)]

घा.घ. 108:- भारत निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट लोक सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उनके सामने विनिर्दिष्ट निर्वाचन लड़ने वाले अभ्यर्थी, लोक प्रतिनिधिरक्ष अधिनियम, 1951 तथा तद्वर्ती बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा वर्णित अपने निर्वाचन व्ययों के लेखे समय के अन्तर्गत और/अथवा अपेक्षित रीति में दाखिल करने में असफल रहे हैं ;

और, उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है ;

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की गारणी के स्वम्भ (1) में विनिर्दिष्ट व्यक्तियों को संगद के किसी भी सदन के या किसी राज्य/संघ राज्य-क्षेत्र की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए, इस प्रादेश की तारीख से तीन वर्ष की कालावधि के लिए निरहिंत घोषित करता है।

गारणी

क्रम सं.	निर्वाचन का विवरण	संसदीय निर्वाचन क्षेत्र की क्रम संख्या और नाम	अभ्यर्थी का नाम और पता	निरहिता का कारण
1	2	3	4	5
1.	लोक सभा के लिए साधारण निर्वाचन, नवम्बर, 1989	8-भिवानी	1. श्री आत्मा राम, गांव व पोस्ट आरमपुर मण्डो, हिसार, (हरियाणा)	निर्वाचन व्यर्थों का लेखा दाखिल नहीं किया।
2.	--वही--	--वही--	2. श्री उमेश सिंह, गांव रुदहोल, डा. चन्देरी, भिवानी (हरियाणा)	--वही--
3.	--वही--	--वही--	3. श्री ओम प्रकाश, पुत्र श्री राम चन्द, गांव व डा. सदलपुर हिसार, (हरियाणा)	--वही--
4.	--वही--	--वही--	4. श्री चन्द्र भान, गांव व डा. मिर्च, भिवानी (हरियाणा)	--वही--
5.	--वही--	--वही--	5. श्री जल, गांव बाबल, डा. सिमवाला, भिवानी (हरियाणा)	--वही--
6.	--वही--	--वही--	6. श्री वेवेन्द्र, गांव मोहानी, भिवानी (हरियाणा)	--वही--
7.	--वही--	--वही--	7. श्री पवन कुमार, गांव व डा. खारिया, हिसार (हरियाणा)	--वही--
8.	--वही--	--वही--	8. श्री विजेंद्र सिंह, गली जम्हियान, भिवानी, (हरियाणा)	--वही--
9.	--वही--	--वही--	9. श्री बृज पाल, गांव व डा. लोहानी, भिवानी (हरियाणा)	--वही--
10.	--वही--	--वही--	10. श्री महेष्, ठाणी राय सिंह, भिवानी (हरियाणा)	--वही--
11.	--वही--	--वही--	11. श्री मोरह सिंह, गांव व डा. गोरी पुर, भिवानी	--वही--
12.	--वही--	--वही--	12. श्री राम सिंह, गांव व डा. माई खुर्द, भिवानी (हरियाणा)	--वही--
13.	--वही--	--वही--	13. श्री राम मेहर, पुत्र श्री कन्हैया लाल, गांव व डा. गोलागढ़, भिवानी (हरियाणा)	--वही--
14.	--वही--	--वही--	14. श्री रण सिंह, गांव व डा. कुलाना, तहसील हांसी, हिसार, हरियाणा	--वही--
15.	--वही--	--वही--	15. श्री शिशपाल, गांव व डा. सुगंरपुर, भिवानी, हरियाणा	--वही--
16.	--वही--	--वही--	16. श्री सुमेर, पुत्र श्री राम सरन, गांव व डा. गोरीपुर, भिवानी, हरियाणा	--वही--
17.	--वही--	--वही--	17. श्री सुमेर, पुत्र श्री शुभकरन, गांव व डा. बीरण, भिवानी, हरियाणा	--वही--

O.N. 108.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the House of the People as specified in Column (2) and held from the constituency specified in column (3) against each name has failed to lodge an account of his/her election expenses or failed to lodge the account within the time and/or in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure ;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in Column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of three years from the date of this Order :

TABLE

Sl. No.	Particulars of election	Sl. No. & name of Parliamentary constituency	Name & Address of candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to the House of People in November, 1989.	8-Bhiwani	Sh. Atma Ram, Vill & P. O. Adampur, Mandi (Hissar) Haryana.	Accounts of election expenses not lodged.
2.	-do-	-do-	Sh. Umed Singh, Vill Rudrol, P. O. Chandeni, Bhiwani (Haryana).	-do-
3.	-do-	-do-	Sh. Om Prakash, S/o Sh. Ram Chand, Vill. & P. O. Sadalpur, Hissar (Haryana).	-do-
4.	-do-	-do-	Sh. Chander Bhan, Vill. & P. O. Mirch, Bhiwani (Haryana).	-do-
5.	-do-	-do-	Sh. Jalle, Vill. Badal, P. O. Siswala, Bhiwani (Haryana).	-do-
6.	-do-	-do-	Sh. Davender, Vill. Lohani, Bhiwani (Haryana).	-do-
7.	-do-	-do-	Sh. Pawan Kumar, Vill. & P. O. Kharla, Hissar (Haryana).	-do-
8.	-do-	-do-	Sh. Brijender Singh, Gali Jindyan, Bhiwani.	-do-
9.	-do-	-do-	Sh. Brij Paul, Vill. & P. O. Lohani, Biwani (Haryana).	-do-

1	2	3	4	5
10.	General Election to the House of People in November, 1989	8-Bhiwani	Sh. Mahesh, Dhani Rai Singh, Bhiwani, (Haryana).	Accounts of election expenses not lodged.
11.	-do-	-do-	Sh. Mohar Singh, Vill. & P. O. Goripur, Bhiwani, (Haryana).	-do-
12.	do	do	Sh. Ram Singh, Vill. P. O. Mai Khurd, Bhiwani, (Haryana).	-do-
13.	-do-	-do-	Sh. Ram Mehar, S/o S. Kanhiya Lal, Vill. & P. O. Golagarh, Bhiwani, (Haryana).	-do-
14.	-do-	-do-	Sh. Ram Singh, Vill. & P. O. Kulana, Tehsil : Hansi, Hissar, (Haryana).	-do-
15.	-do-	-do-	Sh. Sispal, Vill. P. O. Sunger Pur, Bhiwani, (Haryana).	-do-
16.	-do-	-do-	Sh. Sumer, S/o Sh. Ram Saran, Vill. & P. O. Goripur, Bhiwani, (Haryana).	-do-
17.	-do-	-do-	Sh. Sumer, S/o Sh. Subh Karan, Vill. & P. O. Biran, Bhiwani.	-do-

[No. 76/HN/HP/91(4)]

आ.अ. 109:- भारत निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट लोक सभा के लिए नवम्बर 1989 में हुए निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट चण्डोगढ़ संसदीय निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उनके सामने विनिर्दिष्ट निर्वाचन लड़ने वाले अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्विनाशक गण नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा वर्णित अपने निर्वाचन व्ययों के लेखे दाखिल करने में असफल रहे हैं ;

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए कोई कारण प्रयत्न स्पष्टीकरण नहीं दिया है या उसके द्वारा दिए गए अभ्यावेदों पर, यदि कोई हो, विचार करने के पश्चात्, निर्वाचन आयोग का समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यावहारिक नहीं है ।

अतः, अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य-क्षेत्र की विधान सभा प्रथम विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्षों की कालावधि के लिए निरर्हित घोषित करता है ।

सारणी				
क्रम सं.	निर्वाचन का विवरण	संसदीय निर्वाचन क्षेत्र की क्रम सं. और नाम	अभ्यर्थी का नाम और पता	निराहता का कारण
1	2	3	4	5
1.	लोक सभा के लिए साधारण निर्वाचन, 1989	चण्डीगढ़	1. श्री सुरजीत सिंह सोढ़ी, मुगुन श्री वरयाम सिंह, म.नं. 631/1, सेक्टर 41-ए, चण्डीगढ़ ।	निर्वाचन व्ययों का लेखा दाखिल नहीं किया ।
2.	--वही--	--वही--	2. श्री चरणजीत सिंह, म.नं. 17/22, शक्ति नगर, दिल्ली	--वही--
3.	--वही--	--वही--	3. श्री संजीव चुन्नी, म.नं. 245 सेक्टर, 23-ग, चण्डीगढ़ ।	--वही--
4.	--वही--	--वही--	4. श्री आफताब राय मैनी, म.नं. 265, सेक्टर 33-ग, चण्डीगढ़ ।	--वही--

[सं. 76/चण्डीगढ़-लो. स./90]
आदेश से,
क.पी.जी. कुट्टी, सचिव

O.N. 109.—Whereas the Election Commission of India is satisfied that the contesting candidates specified in column (4) of the Table below at the election to the House of the People held in November, 1989 as specified in column (2) and held from Chandigarh Parliamentary constituency specified in column (3) against their names have failed to lodge account of their election expenses as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951, and the Rules and the orders made thereunder;

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notices, or the Election Commission, after considering the representation, made by any of them, if any, is satisfied that they have no good reason or justification for the said failure ;

Now, therefore, in pursuance of Section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being, a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of three years from the date of this Order :

TABLE

Sl. Particulars of election No.	Sl. No. & Name of Parliamentary constituency	Name & Address of the candidates	Reasons for disqualification
1	2	3	4
1. General Election of the House of People, 1989	Chandigarh	Sh. Surjit Singh Sodhi, S/o Sh. Veryam Singh House No. 631/1, Sector 41-A, Chandigarh.	Accounts of election expenses not lodged.
2.	-do-	-do-	-do-
3.	-do-	-do-	-do-
4.	-do-	-do-	-do-

[No. 76/CH-HP/90]

By Order,
K.P.G. KUTTY, Secy.

